



ORDINANCE NO. 2010-04

CHAPTER 17.54 **ACCESSORY DWELLING UNITS**

FINDINGS

1. Government Code §65852 encourages accessory dwelling units (ADUs) and limits jurisdictions' ability to restrict them.
2. Government Code §65852.2.a.1.A allows jurisdictions to limit ADUs to certain areas based on limitations such as water and sewer service or traffic.
3. Government Code §65852.2.a.3 requires applications for ADUs to be considered ministerially without discretionary review or a public hearing if they meet adopted, standard, objective criteria or development standards
4. These State housing regulations do not supersede the CA Coastal Act except that public hearings are not required in issuing a Coastal Development Permit for an ADU.
5. Trinidad has a Local Coastal Plan certified by the CA Coastal Commission in 1980.
6. Trinidad is a very small City, with only around 300 residents and encompassing an area of approx. 0.5 sq. mi with only approx. 200 parcels, most of which are already developed.
7. The ocean waters surrounding Trinidad are a State designated Area of Special Biological Significance. The CA Ocean Plan prohibits all discharges into these areas unless an Exception is granted by the State Water Resources Control Board.
8. The entire City is served by onsite wastewater treatment systems (OWTS) on average urban lot sizes of 8,000 sq. ft.
9. There is enough evidence of, and concern over, OWTS pollution that the City has / will adopted an OWTS Management Program to ensure all systems are inspected, maintained and functioning properly.
10. There are many existing ADUs, both illegal and legal nonconforming
11. Trinidad desires to promote ADUs as affordable housing, while protecting the environment and community values.
12. Trinidad General Plan and Zoning Ordinance place a strong emphasis on private coastal view protection.
13. The Coastal Act and Trinidad LCP protect public views.

Section 17.54.010 – PURPOSE AND INTENT

The City recognizes the importance of a suitable living environment for all residents. The State Legislature has declared that accessory dwelling units (ADUs) are a valuable form of housing in California. It is the intent of the City to permit ADUs, in conformance with state law, subject to standards that will ensure the units contribute to a safe living environment for all residents while protecting the water quality in and around Trinidad. The purpose is to provide flexibility in housing options, an opportunity for the development of small rental units, to provide relatively affordable housing for low- and moderate-income individuals and families, to provide economic support for resident property owners and to provide rental units for the elderly or disabled while still maintaining the small town, residential character of the City.

Section 17.54.020 – DEFINITIONS

- A. "Accessory dwelling unit" or ADU means any residential dwelling unit which provides complete independent living facilities on the same building site as a legal single-family residence, including permanent provisions for living, sleeping, cooking, eating, and sanitation, as defined in Government Code Section 65852.2(i)(4).
- B. "Primary unit" means the primary, existing legal single-family residential dwelling unit which provides complete independent living facilities for one or more persons.

Section 17.54.030 – LOCATION

One ADU may be located on any residentially zoned site which either contains a primary unit or which is undeveloped, but there is a concurrent application for a primary unit. ADUs are not required to meet the density requirements of the General Plan or zoning ordinance. A detached ADU is not considered an accessory building or accessory use.

Section 17.54.040 – PERMITS REQUIRED

- A. Establishment of an ADU requires a permit from the City
- B. Any application for an ADU that meets all standards in §17.54.070 of this chapter shall be approved ministerially without discretionary review or public hearing.
- C. A use permit shall be required in accordance with this Chapter and Chapter 17.72 of the Trinidad Zoning Ordinance for establishment of an ADU which does not meet all the development standards contained or referenced in this chapter.

Section 17.54.050 – PERMITTING PROCEDURES

- A. Step One – Submittal. Applications for ADUs shall be submitted to the City Clerk's Office on a City of Trinidad ADU Application. The City shall provide information on submittal requirements along with the Application.
- B. Step Two – Noticing. Notification for any pending ADU permit shall be provided to neighboring properties and interested persons in accordance with §17.72.130. Notice shall be provided at least seven days prior to any determination by the City Planner on a ministerial permit or Planning Commission on a use permit. If anyone submits evidence that shows that the project will not meet the development standards of §17.54.070 herein to the satisfaction of the City Planner, then a use permit shall be required to be granted by the Planning Commission.
- C. Step Three – Issuance. A ministerial permit shall only be issued for an ADU if the application conforms to all the specific standards contained in Section 17.54.070 and only after making the three findings below. For ADUs that do not meet the standards contained in §17.54.070, in addition to the findings required for granting a use permit in §17.72.070 of the Trinidad Zoning Ordinance, the following findings shall also be required from the Planning Commission. The decision of the City Planner and / or Planning Commission may be appealed in accordance with §17.72.100 of the Trinidad Zoning Ordinance.
 - 1. The ADU is compatible with the design of the main unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, and will not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.
 - 2. The ADU will not tend to change the character of or cause a concentration of such units sufficient to change the characteristic of the residential neighborhood in which it is located.
 - 3. The ADU is consistent with the Trinidad Zoning Ordinance and policies of the General Plan, including that it will not cause significant blockage of coastal views from public viewing points and has been designed to minimize view blockage from adjacent residences.

Section 17.54.060 – EXISTING ADU's

A. Nonconforming ADU's

1. Legal, nonconforming ADU's, those established prior to the certification of the City's Zoning Ordinance in 1980, shall maintain their nonconforming status and shall be subject to all the nonconforming regulations in Chapter 17.64 (Nonconforming Uses and Structures) of the Trinidad Zoning Ordinance, unless a permit application for an ADU is approved by the City Planner or Planning Commission for that unit. If such permit is granted, then the ADU shall no longer be considered nonconforming and shall be subject to all the regulations of this Chapter.
2. Units that can not meet all the development standards of §17.54.070 may be granted an exception if, in the opinion of the Planning Commission, findings 1 and 2 of §17.54.050.B can be made and all feasible measures to meet the development standards have been made. A use permit is required to be approved by the Planning Commission.
3. Legal, nonconforming ADU's are required to maintain their Onsite Wastewater Treatment System at a level of Satisfactory or better according to the City's OWTS Management Program. If the OWTS receives a performance rating of less than Satisfactory, then restrictions on water use and occupancy should be enacted through a formal agreement with the property owners. Monitoring wells shall be installed to ensure that effluent is being adequately treated to prevent water pollution.

B. Illegal ADU's

1. Owners of illegal ADU's, those that were constructed or converted after 1980 without Planning Commission approval, have a three year grace period in which to apply for an ADU permit from the City. In addition to meeting the development standards of §17.54.070 or receiving approval of a use permit, they must also conform to the following requirements:
 - (a) Units must be inspected by the City Building Official for and upgraded to compliance with health and safety requirements, which may include building permits and fees.
 - (b) Registered ADU's are required to maintain their Onsite Wastewater Treatment System at a level of Satisfactory or better according to the City's OWTS Management Program. If the OWTS receives a performance rating of less than Satisfactory, then restrictions on water use and occupancy should be enacted through a formal agreement with the property owners. Monitoring wells shall be installed to ensure that effluent is being adequately treated to prevent water pollution.
 - (c) Units that can not meet all the development standards of §17.54.070 may be granted an exception if, in the opinion of the Planning Commission, findings 1 and 2 of §17.54.050.B can be made and all feasible measures to meet the development standards have been made.
2. If an illegal ADU is not registered within the timeframe set forth above, then when discovered, whether by an OWTS inspection or other means, the City may immediately begin Nuisance Abatement against the property.

Section 17.54.070 – DEVELOPMENT STANDARDS

An ADU permit will be issued only if it complies with all the following development standards:

- (a) **Existing Development:** A single-family dwelling must exist on the site or shall be constructed on the site in conjunction with the construction of the ADU.
- (b) **Number per Building Site:** A maximum of one ADU shall be permitted on any one parcel or lot. ADU's may not be permitted on residential lots already having two or more dwelling units thereon.
- (c) **Unit Size:** The second unit must be either attached to the primary unit and located within the living area of the primary unit, or detached from the primary unit and located on the same lot as the primary unit. The floor area of an attached second unit shall not exceed 30% of the existing living

area of the primary unit or 800 square feet, whichever is less, except that a minimum size of 150 sq. ft. shall be allowed. The total area of floor space of a detached second unit shall not exceed 1000 square feet.

- (d) **Setbacks:** The setback requirements of the zoning district in which the ADU is located shall apply; however, ADUs may be permitted in legally constructed structures located within required rear and side setbacks. A detached ADU shall be at least ten feet from any building. Rear yard setbacks for ADUs on alleys shall be measured from the centerline of the alley.
- (e) **Height:** An attached ADU shall not be greater in height than the primary unit. A detached ADU shall be no greater than 15 feet in height.
- (f) **Lot Coverage and Floor Area:** An ADU shall be included in the lot coverage and floor area requirements applicable to the site. Floor area is measured to the outside surface of exterior walls the walls of the living space. Total floor area of both units shall not exceed 2,600 sq ft. or 30% floor-to-area ratio and 25% lot coverage.
- (g) **Off-street Parking:** The ADU shall provide one off-street parking space per unit. The parking space may be covered or uncovered, must be of standard size. Required parking may be located within required setbacks, and can be tandem.
- (h) **Permanent Foundation:** A permanent foundation shall be required for all ADUs.
- (i) **Architectural Compatibility:**
 - (1) The ADU shall incorporate the same or similar architectural features and building materials as the main dwelling unit or dwellings located on adjacent properties and shall be consistent with the city of Trinidad Design Review and View Protection findings.
 - (2) Any exterior alteration or addition to a dwelling on the Historic Resources Inventory shall be consistent with the Secretary of the Interior's *Standards and Guidelines*.
- (j) **Privacy:** The entrance to the accessory unit shall face the interior of the lot unless the accessory unit is directly accessible from an alley or a public street, or if it utilizes the same entrance as the primary unit. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping shall be required to provide screening.
- (j) **Utilities.** All utilities for detached units shall be installed underground. All ADUs shall have separate utility meters from the primary residence.
- (k) **Onsite Wastewater Treatment System (OWTS):** Prior to issuance of a building permit, the applicant shall submit certification by the Health Department, that the existing OWTS is of adequate size and condition to support projected sewage flow for the primary unit and ADU. If the capacity or condition of the existing OWTS is found to be inadequate to serve the existing and proposed units on the property, OWTS shall be replaced or upgraded to meet current standards, at the expense of the applicant.
- (l) **Accessibility.** All newly constructed first-floor ADUs shall be adaptable for use by persons with ADA-defined disabilities as follows:
 - (1) The bathroom shall provide minimum clearances as specified for accessible units per California state accessibility requirements, and grab bar blocking shall be installed in the walls.
 - (2) Entry doors shall have a minimum width of three feet.
 - (3) Interior doors shall have a minimum width of 2 feet 10 inches
 - (4) Thresholds shall meet California state accessibility requirements
 - (5) The kitchen shall meet the minimum clearances specified in the California state accessibility requirements
- (m) **Occupancy.**

- (1) The principal place of residence of the property owner shall be either the ADU or the primary unit.

Section 17.54.080 – DEED RESTRICTIONS

Before obtaining an ADU building permit, the property owner shall file with the county recorder a declaration or an agreement of restrictions, which has been approved by the city attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

- (a) The ADU shall not be sold separately from the primary unit.
- (b) Any conditions required by the City's OWTS Ordinance.
- (c) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.

PASSED AND ADOPTED by the Planning Commission of the City of Trinidad, State of California in March 2008.

PASSED AND ADOPTED by the City Council of the City of Trinidad, State of California, on **Wednesday, August 11, 2010**, by the following vote:

AYES:	Morgan, Ratzlaff, Binnie, Bhardwaj, Fulkerson
NOES:	None
ABSTAIN:	None
ABSENT:	None

First Reading: Wednesday, July 14, 2010

Second Reading: Wednesday August 11, 2010

Attest:

Gabriel Adams
Trinidad City Clerk

Stan Binnie
Mayor